

NonPublic Report - COP Meeting - 10/22/18

1. Changes within the Title I, Part A Non-Regulatory Guidance in relation to: Providing Equitable Services to Eligible Private School Children, Teachers, and Families.

a. **Pooling of Title I Funds**

Pooling of Title I funds permits an LEA, after timely and meaningful consultation with appropriate private school officials, to provide services to eligible low-achieving students among a group of schools with Title I funds generated by students from low-income families who reside in participating Title I public school attendance areas and who attend those private schools. Which students to serve is determined, in consultation with appropriate private school officials, among all of the private schools in the pool. The guidance reflects the Department's decision that inter-district pooling is lawful and allowable as pooling across districts does not change the total amount of funds generated for Title I equitable services for any area in which pooling across LEAs would occur. It also benefits eligible private school students by ensuring that the lowest-achieving students in the group of private schools in a pool receive Title I services, reduces burden on LEAs and private school officials by promoting efficiency through the use of shared services, and can only occur if agreed to by private school officials and LEAs.

b. **Religiously-Affiliated Third-Party Providers**

In addition, the guidance addresses the permissibility of religious organizations to serve as third-party contractors to provide equitable services. This is consistent with the Secretary's letter to Congress in which she stated that the Department will no longer enforce a restriction barring religious organizations from serving as contract providers of equitable services solely due to their religious affiliation. In a press [release](#) (March 11, 2019), the Secretary stated: "The Trinity Lutheran decision reaffirmed the long-understood intent of the First Amendment to not restrict the free exercise of religion." Secretary DeVos further stated, "Those seeking to provide high-quality educational services to students and teachers should not be discriminated against simply based on the religious character of their organization."

c. **Carryover of funds**

If an LEA is providing equitable services as required and meeting the obligation of funds requirement in ESEA section 1117(a)(4)(B), it generally should not have any, and certainly not significant, carryover. The ESEA, however, does not prohibit carryover of funds for equitable services and, in most cases, requires it. The following are examples of circumstances that could result in carryover of equitable services funds and how an LEA would use such carryover:

Reason for Carryover	Use of Carryover
Services for eligible children in one or more private schools are delayed (e.g., based on a natural disaster, delayed consultation, inability to employ qualified personnel, or unexpected procurement challenges). As a result, the LEA is unable to fully provide required equitable services, and some funds are unobligated at the end of the Federal fiscal year.	The LEA must use the funds to provide equitable services to eligible children in the affected private schools the following year.
An LEA uses a third-party contractor to provide equitable services, and the invoiced amount for services in one of the private schools is \$1,000 less than anticipated. Because this occurs late in the summer, the LEA is unable to responsibly obligate the funds prior to the end of the Federal fiscal year.	The LEA, in consultation with private school officials, must use these funds the following year to provide equitable services to students in the affected private school. If, after consultation, those private school officials decline such services, the LEA must add the funds to the proportional share available for equitable services to other participating private schools. If there are no other participating private schools, the funds may be used to provide Title I services in public schools.

d. Determining services in Private schools

An LEA, in consultation with appropriate private school officials, determines the appropriate Title I services based on the academic needs of the private school students. (ESEA section 1117(a)(1)(A); 34 C.F.R. § 299.64(b)(2)(i)). Title I services may be provided in subject areas or at grade levels that are different from those provided to public school students. These services must hold reasonable promise that the academic performance of private school participants will improve. (34 C.F.R. § 200.64(b)(2)(ii)(B)).